RECEIVED

MAY 2 1 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

# SHAINIS & PELTZMAN

### COUNSELORS AT LAW

SUITE 500
1255 23RD STREET, N.W.
WASHINGTON, D.C. 20037

202-857-2946

AARON P. SHAINIS
202-857-2942

May 21, 1993

FACSIMILE
202-857-2900

LEE J. PELTZMAN
202-857-2943

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

Re:    MM Docket No. 93-56

Dear Ms. Searcy:

Transmitted herewith, on behalf of C. Devine Media, Inc., are an original and six (6) copies of its Motion for Continuance of Procedural Dates in the above-captioned proceeding.

Should any questions arise relative to this matter, please communicate with the undersigned.

Sincerely,

Aaron P. Shainis
Counsel for
   C. DEVINE MEDIA, INC.

Enclosure

No. of Copies rec'd 0+6
List A B C D E

for Station KBER-FM to a qualified minority owner pursuant to the Commission's Policy Statement. Devine requests that the Presiding Officer continue all procedural dates in this proceeding until November 20, 1993.

Devine's motion is in accordance with Commission precedent. In its Clarification, released October 11, 1978, the Commission announced that it would allow those licensees who were in hearing status prior to May, 1978, to file distress sale applications as long as those licensees interested in the distress sale avenue elected that option within forty (40) days (by November 21, 1978). Licensees declaring their election were then given until April 21, 1979 (over six (6) months from the date of the issuance of the Clarification), in which to submit a formal application for distress sale. 44 RR 2d at 480.

Likewise, in Street Broadcasting Corp., 44 RR 2d 1630 (1979), an applicant who had been designated for renewal on character grounds successfully moved for a continuance of all procedural dates including discovery, for a period of five (5) months in order to permit it the opportunity to explore the possibility of a distress sale to a qualified minority owner.

The Commission in its Policy Statement set out the avoidance of time-consuming and expensive hearings as a benefit of a distress sale. 42 RR 2d at 1695. In Street Broadcasting, the Presiding Judge noted the potential waste on discovery that ultimately may prove valueless outweighed the benefits of proceeding with discovery at that time. 44 RR 2d at 1631. Here, as well, absent some demonstration that particular evidence may not be present, there is no need to conduct immediate discovery.

Devine's motion is in line with the above-cited precedent. Accordingly, Devine requests that the procedural dates in this proceeding be continued until and including November 20, 1993,

2

in order that Devine may submit a formal application for distress sale to a qualified minority owner. Devine is amenable to reasonable reporting conditions which would require the filing of a report to the Commission every sixty (60) days concerning the status of Devine's distress sale efforts.

Respectfully submitted,

C. DEVINE MEDIA, INC.

By: _____
Aaron P. Shainis

By: _____
Lee J. Peltzman

SHAINIS & PELTZMAN
Suite 500
1255 23rd Street, N. W.
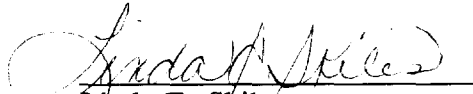Washington, D. C. 20037
202/857-2946

Its Attorneys

May 21, 1993

# CERTIFICATE OF SERVICE

I, Linda E. Skiles, Office Administrator of the law firm of Shainis & Peltzman, do hereby certify that copies of the foregoing document were mailed this 21st day of May, 1993, to the offices of the following:

Administrative Law
  Judge John M. Frysiak *
Federal Communications Commission
Room 223
2000  L  Street, N. W.
Washington, D. C.  20554

Y. Paulette Laden, Esq. *
Mass Media Bureau
Federal Communications Commission
Room 7212
2025  M  Street, N. W.
Washington, D. C.  20554

Harry C. Martin, Esq.
Suite 350
1001  22nd Street, N. W.
Washington, D. C.  20036


Linda E. Skiles


\*      Via Hand Delivery